

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF:)
THE APPLICATION OF DELMARVA POWER)
& LIGHT COMPANY FOR APPROVAL OF A) **PSC DOCKET NO. 17-1094**
PROGRAM FOR PLUG IN VEHICLE CHARGING) **SEP**
(Filed October 19, 2017))

**RESPONSE OF THE DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL TO MOTION FOR STAY**

The State of Delaware Department of Natural Resources and Environmental Control (“DNREC”) responds as follows to the Motion to Stay the above-referenced docket filed by the Delaware Public Advocate (“DPA”) and Public Service Commission staff on July 13, 2018. DNREC opposes such an indefinite delay as unjustified, and asks that the Motion be denied, in order that this matter might proceed to resolution, for the reasons set forth herein.

1. DPA and staff seek an indefinite delay in the above-referenced docket, based on the possible adoption by the Delaware General Assembly of legislation that would exempt from regulation as a public utility the operation of an electric vehicle charging service. The rationale offered for delay is that potential deregulation “seems inconsistent” with the programs pursued by Delmarva in the pending docket.¹

2. The sole basis for the Motion is the introduction of Senate Bill 188 in the 149th General Assembly.² This legislation was not enacted. The Bill was approved by the Senate; but was not voted on by the House, and thus died with the end of the Session. DPA speculates that such a bill will be “renewed” by the members of the new General Assembly in 2019.

¹ Motion at ¶7.

² Motion at ¶5.

3. The Motion is based on the mistaken assumption that deregulation of charging station operators would somehow be inconsistent with the programs proposed by Delmarva Power & Light Company (“Delmarva”) in its application. The application does not involve the operation of charging stations. Rather, the programs advocated include new time-of-use rates for nighttime vehicle charging, credits and incentives for the purchase and installation of charging devices, and the installation of fast-charging devices along major transportation corridors and residential locations. The deregulation of charging operations – if it ever occurs – would complement, not conflict with, the programs advocated by Delmarva.

4. DNREC, through its Division of Climate, Coastal, and Energy, strongly supports efforts to facilitate and accelerate the transition from fossil fuels to clean energy sources, including specifically the development of infrastructure to accommodate plug-in vehicles. The six programs outlined by Delmarva would further that goal in Delaware. Proposed legislation to deregulate operators could conceivably be seen as an economic incentive for providers to enter the expanding market, and thus another distinct initiative – compatible with the Delmarva programs – to support plug-in vehicles. The two approaches are not mutually exclusive.

5. DPA in its Motion confuses the legislative and regulatory processes, which ordinarily proceed on separate tracks, fully independent of each other. Such is the case here. There is no need for the Public Service Commission to wait for the General Assembly to act. If legislation deregulating the operation of charging stations were adopted at some point in the future, it would not change the authority of the PSC to review and approve proposals such as those made by Delmarva in the pending application. Nothing in S.B. 188 suggests a legislative intent to usurp that authority.

6. DPA has pursued an erratic course, in first opposing a postponement of the scheduled hearing to allow for all parties to review the consultant's report³ produced by Delmarva, and then seeking an indefinite stay. The status of S.B. 188 was well known at the time of the July 3, 2018 teleconference, yet during that teleconference DPA continued to oppose any delay in this docket and made clear its intent to appeal any decision delaying this docket. The Hearing Officer exercised good judgment in allowing all parties to receive and review the Delmarva study, in order that the application might be considered on a more complete record. For many of the reasons cited by DPA in opposing the postponement, this matter should now proceed to a resolution.

7. DNREC supports the efforts of Delmarva to accelerate the switch by consumers to electric vehicles by extending the benefits of favorable rates and access to charging stations to the public at large through incentives, credits, and infrastructure. The movement away from tailpipe emissions and toward emission-free vehicles and off-peak charging will result in cleaner air without stress on the electric grid, to the benefit of all Delawareans.

WHEREFORE, DNREC asks that the Motion for an indefinite Stay be denied, and that this matter proceed to an evidentiary hearing.

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³ Benefit Cost Analysis for Electric Vehicle Adoption in the Delaware DPL Territory by Gebel Associates, Inc.